

STAFF REPORT

Community Development | Board of Zoning Appeals

APPLICATION DETAILS

Applicant	Scott Webb, Architect
Location	327 W Spring Street
Owner	Miami Mobile Home Park LLC, c/o Gail J. Willis
Action Request	Variances to Section 1141.04(j)(3)(G) trash enclosure location; Section 1149.07(b)(1) parking spaces in front setback; Section 1149.07(b)(3) maximum parking in front of structure; and Section 1149.07(e)(2) requirement for one loading space
Lot Size	18,887 sq ft approx.
Lot Width	129 ft approx. on W Spring Street; 146 ft approx. on S Locust Street;
Building Size	2,400 sq ft
Current Use	Commercial (Vacant) – former gas station & convenience store
Current Zoning	GB General Business District
Surrounding Land Uses	Multi-family apartment complex (South Locust Apartments) to the south; commercial to the east (formerly PEAK Health & Nutrition); electric substation to the north; commercial gas station (Speedway) to the west

BACKGROUND

The subject site was the previous home of a Circle K convenience store and Marathon fueling station for many years, but closed in 2021. The gas canopy and fuel pumps were removed as of December 2021. The applicant's client is interested in establishing a new sit-down restaurant concept as a re-occupancy of the former convenience store building. In addition to tightening up the parking area in front of the structure and sprucing up with new tree plantings, the applicant also proposes a new outdoor patio seating area.

A Preliminary Zoning Review was conducted by City staff and released to the applicant on August 22, outlining various Code provisions applicable to changing the land use from a former (now vacant) gas station to a restaurant. Generally speaking, the impression a lot of Zoning Code standards tend to leave is that they anticipate brand new development on a vacant piece of ground, thus offering far greater flexibility and ease for achieving compliance. The Code isn't always clear about exactly how standards should be applied in redevelopment situations, especially when involving partial redevelopment and/or adaptive

reuse as is currently proposed for the subject site. For a by-right use in Oxford, the procedural avenue for achieving flexibility/relief is the Variance process.

DESCRIPTION

The applicant's requested Variances are summarized in the table below:

Requirement	Code Section	Standard	Proposal
1. Trash Enclosure Location	1141.04(j)(3)(G)	Not in front yard	In front yard
Section 1141.04(j)(3)(G) specifies that any new trash/refuse enclosure area <i>shall not be in the front yard or the right of way</i>. An existing deteriorated refuse collection area is located on the east side of the building, and is visible from W Spring Street. This area is partially located within the front yard, since part of it is past the front façade of the building, thus already in a grandfathered status. The applicant proposes removing the existing refuse area from its present location and constructing a new enclosure on the west side of the building facing S Locust Street. Because the enclosure is shifting locations, there is a need for a Variance because it involves a new feature in a new location, thus the grandfathered status is not retained. The new enclosure would otherwise have to meet all other applicable Code requirements, including walls made of durable material (masonry) and painted gates at the front to screen receptacles. The existing collection area is proposed to be converted to an outdoor patio seating area for restaurant patrons.			
2. Parking Spaces in Front Setback	1149.07(b)(1)	None within setback	13 of 19 are within setback
A new land use is required to demonstrate compliance with minimum parking requirements. Per Section 1149.05, a new restaurant is required to provide 1 space per each 150 square feet of "usable floor area." Usable Floor Area is defined in Section 1159.22(2) as <i>the sum of the gross floor area of all of the floors of a building or structure and of all accessory buildings on a lot as measured from the interior face of the exterior walls and usable for human occupancy but which excludes the floor area of heater rooms, mechanical equipment rooms, utility rooms, storage rooms, attics, unenclosed porches, light shafts, public corridors, public stairwells, and public toilets</i>. The applicant indicates the footprint of the existing building is 2,400 square feet. Without accounting for any possible floor area extractions per the definition of "usable floor area" above, this would mean the greatest number of spaces that could be required for the use/site is 16. The minimum is met by providing 19 total spaces. The minimum front yard setback is 35 feet, per Section 1143.12(c)(2) which outlines setback requirements for the GB General Business District. When comparing the proposed parking arrangement to the front setback line, 13 of the proposed 19 spaces fall within the setback area.			
3. Max Parking in Front of Structure	1149.07(b)(3)	70% max	100%
Section 1149.07(b)(3) specifies that <i>the maximum number of off-street parking spaces provided on-site in front of the principal structure shall not exceed 70% of the total number of required off-street spaces</i>. Therefore, the Code on its own does not permit more than 11 of the 16 required spaces (16 x 70%) to be located in front of the structure. All 16 required spaces (100%), plus 3 additional spaces, are proposed to be located in the front of the existing structure.			

Requirement	Code Section	Standard	Proposal
4. Loading Space Requirement	1149.07(e)(2)	1 space required	None
Section 1149.07(e)(2) requires a minimum of one loading space for all non-residential uses totaling 20,000 square feet of floor area or below, and for such spaces to be sized 10 feet wide by 25 feet long. The general purpose of this regulation is to reserve space on-site for larger trucks and/or delivery vehicles which will not interfere with the movement or parking of other traffic. While Uptown projects are exempt from this requirement (due to the fact that such vehicles may often park on High Street or in a service alley), projects in more suburban locations of the city are not. The Code also says that such spaces may be located anywhere on the lot. The applicant requests the loading space requirement not be imposed for the new restaurant use, with only normal sized customer parking spaces (9 feet wide by 18 feet long) and appropriate 24-foot wide aisle widths being provided on-site.			

PUBLIC COMMENTS

Notification was mailed to property owners within 200 feet and a sign was placed on the property. No official public comments have been received as of this writing.

DEPARTMENT COMMENTS

Below are comments from City departments:

Department	Respondent	Response
Economic Development	Seth Copenbaker, Assistant to the City Manager	Returned with Comments
- As a property located at the intersection of two major corridors in Oxford, the Economic Development staff are in full support of facility and site improvements at 327 W. Spring. - The proposed development, a restaurant, represents a potential economic driver to this area. - The proposed variances appear to be in keeping with the features of this property, and consistent with the neighboring developments. - Further the proposed outdoor dining area represents a type of development frequently requested in public comments and solicitation (via the Oxford Tomorrow comprehensive plan efforts). - The rationale for the lack of developed loading space is consistent with a restaurant operating for traditional "lunch" and "dinner" service. However, a business operating during "breakfast" hours may face challenges in receiving deliveries and managing guest parking. The Economic Development staff support this proposed site variances and adaptive reuse, without concerns.		
Engineering	Scott Otto, City Engineer	Returned without Comments
Fire	John Detherage, Fire Chief	Returned without Comments
Police	John Jones, Police Chief	Returned without Comments

BZA SITE HISTORY

Past case history for the subject property is outlined in the table below:

Case No.	Request(s)
BZA-1992-02	Variance to Front Yard Setback for Gas Canopy
The site was previously occupied by a Dairy Mart convenience store. In early 1992, Dairy Mart proposed adding gasoline fuel pumps and a canopy in front of their store. To enable this to happen, Dairy Mart requested a reduction in the front yard setback from 40 feet to 22 feet, as measured from the front lot line, in order to accommodate the new canopy. This was per the C-4 “Urban Commercial District” zoning in place at the time. Although staff was not in favor, the BZA granted the request at its meeting on April 23, 1992.	
PC-1992-08	Special Use Permit to Establish Gas Station
After obtaining Variance approval for the front yard setback, Dairy Mart then applied for a “Special Use Permit” in order to establish a new gasoline station use in conjunction with the existing Dairy Mart convenience store. Oxford’s current Zoning Code no longer uses the term <i>Special Use Permit</i>, though the most equivalent process today would be a <i>Conditional Use</i>. The Planning Commission heard the case at its meeting on August 11, 1992, and recommended approval. City Council later approved the Special Use Permit request on September 1, 1992, contingent upon a number of conditions including re-location of an electric utility pole from the corner of Locust and Spring Streets to instead be behind the building.	
BZA-2009-08	Variance for LED Electronic Changeable Copy Sign
The applicant, Rick Self (representing Circle K / Marathon), had applied for a Variance seeking to install an electronic fuel pricing display on the pylon sign at the corner of Locust and Spring. The Zoning Code did not expressly allow for this type of signage at the time. This Variance application was not processed by staff or brought to the Board, on the basis that the application was not received within a 30 day window of prior Building Permit refusal. Circa 2009, formal denial of a Building Permit was always required prior to consideration of a Variance request, and “revisions” (or in this case, a request for Variance) were required to be submitted within 30 days. The application of procedural Code provisions has since evolved over time, to the point where today an applicant has the option of requesting a Preliminary Zoning Review letter from the Zoning Administrator as a prerequisite to seeking a Variance; formal denial of a Building Permit doesn’t necessarily have to be given.	
BZA-2010-03	Variance for LED Electronic Changeable Copy Sign (Re-application)
This was the second attempt by applicant Rick Self to apply for an LED fuel pricing sign. Unlike the previous attempt, this application was accepted by staff and brought to the Board for consideration. The requested Variance was to <i>Section 1151.03(b)</i>, which simply stated (and still states to this today) that <i>no signs are permitted other than those specifically permitted in [the] Code</i>. In other words, the signage chapter is “prescriptive” in nature such that anything which is not expressly permitted is deemed to be prohibited. Staff recommended approval subject to several conditions, including prohibition of animation, flashing, or movement of any kind per other relevant Code requirements. The Board voted 3-0-0 to approve the request. This decision was a “landmark” for the rollout of digital fuel pricing at other gasoline stations in the city thereafter.	

DECISION CRITERIA

In accordance with **Section 1139.02(c)(1)**, the burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for Variance. Furthermore, per **Section 1139.02(c)(2)** the BZA must find that **practical difficulties** exist that would render strict application of the Code unreasonable. In determining whether such difficulties exist which are sufficient to warrant the Variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed narrative addressing the review criteria from Mr. Webb. If the BZA determines that difficulties exist which are sufficient to warrant the Variance, staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the Variance request. If the BZA does approve the Variance it can make separate findings and attach any appropriate conditions it deems necessary as permitted by **Section 1139.02(d)(2)**.

Staff's review of the Decision Criteria is provided in the tables that follow:

Criterion A	Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance
Supports Variance #s 2 and 3. The property could not yield reasonable return without relief on parking. Does not support Variance #1. The property would likely yield return even without a patio. Does not support Variance #4, <u>but only if Variance #1 were granted.</u> Otherwise, supports.	With respect to Variance #1 – A new trash enclosure could be built in close proximity to the present location, but per the applicant's commentary would seem to render the ability to provide an outdoor patio less viable. However, a reasonable return would likely still be possible even if the patio feature were removed from the overall scope. With respect to Variance #s 2 and 3 – This existing commercial site cannot be adaptively reused unless Variances are granted to the parking standards. Denial of the parking-related variances would necessitate a complete redevelopment of this site, including demolition of the building and more complex reconfiguration of the parking area. The probable financial investment required to comply with straight Code requirements would be far more significant, and quite possibly impede business activity at the site which has not been performing since the vacation of the gas station use. With respect to Variance #4 – If the Variance to #1 were granted and the patio allowed to be built as proposed, it seems possible the parking area pavement could be expanded to accommodate a loading area beside the patio. The patio could also shift location further south to make for a larger loading area that would not interfere as much with parking aisle circulation.
Criterion B	Whether the variance is substantial
Supports Variance #s 1, 2, and 3. These Variances are not substantial. Does not support Variance #4. To not offer loading space for a restaurant is substantial.	Given that this is a small corner lot with exposed frontage onto W Spring Street and S Locust Street, there are little to no creative ways to hide unpleasant features of the site, including the trash enclosure and parking, without a significant redevelopment undertaking or even possible collaboration with adjoining properties/owners to bring a larger amount of land under common control. With this perspective in mind, staff does not believe Variance #s 1, 2, or 3 are substantial. However, with respect to Variance #4, eliminating potential space for a loading zone for restaurant-related deliveries seems to be more substantial. When the site was previously in use as a gas station, there were edges to the parking area that could – and likely did – serve as loading space.

Criterion C	Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance
Supports Variance #s 1, 2, and 3. The character would be largely left in-tact. Inconclusive on Variance #4.	The proposal represents a moderate effort to improve what is already an auto-oriented commercial site. To this end, the essential character would remain largely in-tact by granting Variances 1, 2, and 3. With respect to Variance #4, there is a chance the adjoining property at 325 W Spring may be impacted if there is not an adequate place for delivery vehicles to park on the 327 W Spring site. A frustrated driver may resort to parking in the most convenient/workable location, potentially impacting other businesses.
Criterion D	Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage)
Supports Variance #s 1, 2, and 3. Inconclusive on Variance #4.	Engineering, Fire and Police Departments all returned the application without comment, thereby demonstrating there were no proposed development features that were glaringly concerning. With response to Variance #4, if delivery vehicles were to resort to parking in odd locations within the drive aisle or at/near curb cuts, this could distort the flow of traffic with potential spillover effects onto either W Spring Street or S Locust Street. Such a situation, if it arose, <i>would</i> be of concern to emergency personnel.
Criterion E	Whether the property owner purchased the property with knowledge of the zoning restriction
Supports Variance #s 1, 2, 3 and 4.	This criterion has little relevance to the requests at hand, which pertain to specific characteristics of commercial site development. Design-related decisions/requests seem to be largely being driven by the potential future restaurant tenant. The applicant is following the proper process to have design plans observed for compliance with local code provisions, and in turn request potential variation from standards as necessary or desirable.
Criterion F	Whether the property owners' predicament feasibly can be obviated through some method other than a variance
Supports Variance #s 2 and 3. Does not support Variance #1. Does not support Variance #4, <u>but only if Variance #1 were granted.</u> Otherwise supports.	With respect to Variance #1 – The predicament for relocating the refuse collection area from the northeast side of the building to the southwest side seems to be more self-created, in terms of desiring an outdoor patio space. With respect to Variance #s 2 and 3 – While urbanizing this street corner (by demolishing the existing building and building a new one closer to the street/s) possibly in conjunction with other nearby property would seem to be a more ideal future for this site, to mandate such measures be done would be extreme. The building cannot be feasibly reoccupied unless these Variances are granted. With respect to Variance #4, echoing commentary toward Criterion A, if Variance #1 were not granted then there likely would not be a feasible place to situate a 10'x25' loading space on the site.

Criterion G	Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance
Supports Variance #s 1, 2, and 3. The spirit and intent is upheld in consideration of existing context and inherited qualities. Does not support Variance #4. The spirit would not be observed if granted.	Generally speaking for commercial development occurring in the GB General Business zone, the intent of the Code is to: (1) keep the majority of the off-street parking to the side or to rear of buildings; (2) conceal the more “functional” (uglier) aspects of development (i.e. trash servicing) away from the public realm by not being located in front yard areas; and (3) provide for adequate space off-street where delivery or pick-up vehicles can appropriately service business activity. This is a smaller lot and a tighter context than many others in the GB District which offer more room to situate features and adequately adhere to setbacks. Given the inherent qualities of the subject site, staff believes the spirit and intent will largely be upheld by granting Variance #s 1, 2, and 3. Staff believes there are design solutions available to accomplish compliance and negating the need for Variance #4, thus directly observing the spirit of the Code with respect to the loading space requirement.
Criterion H	Any other relevant factor
Supports Variance #s 1, 2, 3 and 4.	327 W Spring is a prominent commercial location at the corner of one of the busiest intersections in the city. Potential economic benefits should not be ignored, per comments shared by Assistant to the City Manager Seth Copenbaker. While prevention of an outdoor patio may not necessarily be considered a “predicament” with respect to the Zoning Code, it could help foster a more engaging commercial environment and help draw more customer traffic. Additionally, staff agrees with the applicant’s statement that the proposed reuse aligns with the goals of the Oxford Comprehensive Plan adopted in 2008; Objective 5 of this Plan, in particular, voices support for the redevelopment of commercial areas along Locust Street.

CONCLUSION

At the time of this report, staff believes there is substantial evidence to support Variance #s 1, 2, and 3. Staff believes more evidence is needed to support Variance **#4** (to eliminate the loading space requirement). Staff advises the Board to be open to any additional evidence that may be contributed during the hearing.

SUBMITTED BY:



Zachary Moore, AICP
City Planner / GIS Coordinator

DATE: September 20, 2022

BZA MOTION FOR VARIANCES

With regard to the Request for Variance # **BZA-2022-03**, being Variances to Section 1141.04(j)(3)(G) trash enclosure location, Section 1149.07(b)(1) parking spaces in front setback, Section 1149.07(b)(3) maximum parking in front of structure, and Section 1149.07(e)(2) requirement for one loading space:

Mr./Ms. _____ hereby moves that the Board adopt and make the following findings of fact:

- A. The property in question (**will / will not**) yield a reasonable return or (**can / cannot**) be used beneficially without the variances because:_____
- B. The variance (**is / is not**) substantial because:_____
- C. The essential character of the neighborhood (**would / would not**) be substantially altered by the variance and adjoining properties (**would / would not**) suffer a substantial detriment as a result of the variance because:_____
- D. The variance (**would / would not**) adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because:_____
- E. The property owner (**did / did not**) purchase the property with knowledge of the zoning restriction because:_____
- F. The property owner's predicament (**can / cannot**) feasibly be obviated through some method other than a variance because:_____
- G. The spirit and intent behind the zoning requirement (**would / would not**) be observed and substantial justice done by granting the variance because:_____
- H. Other relevant factors, if any, considered include:_____

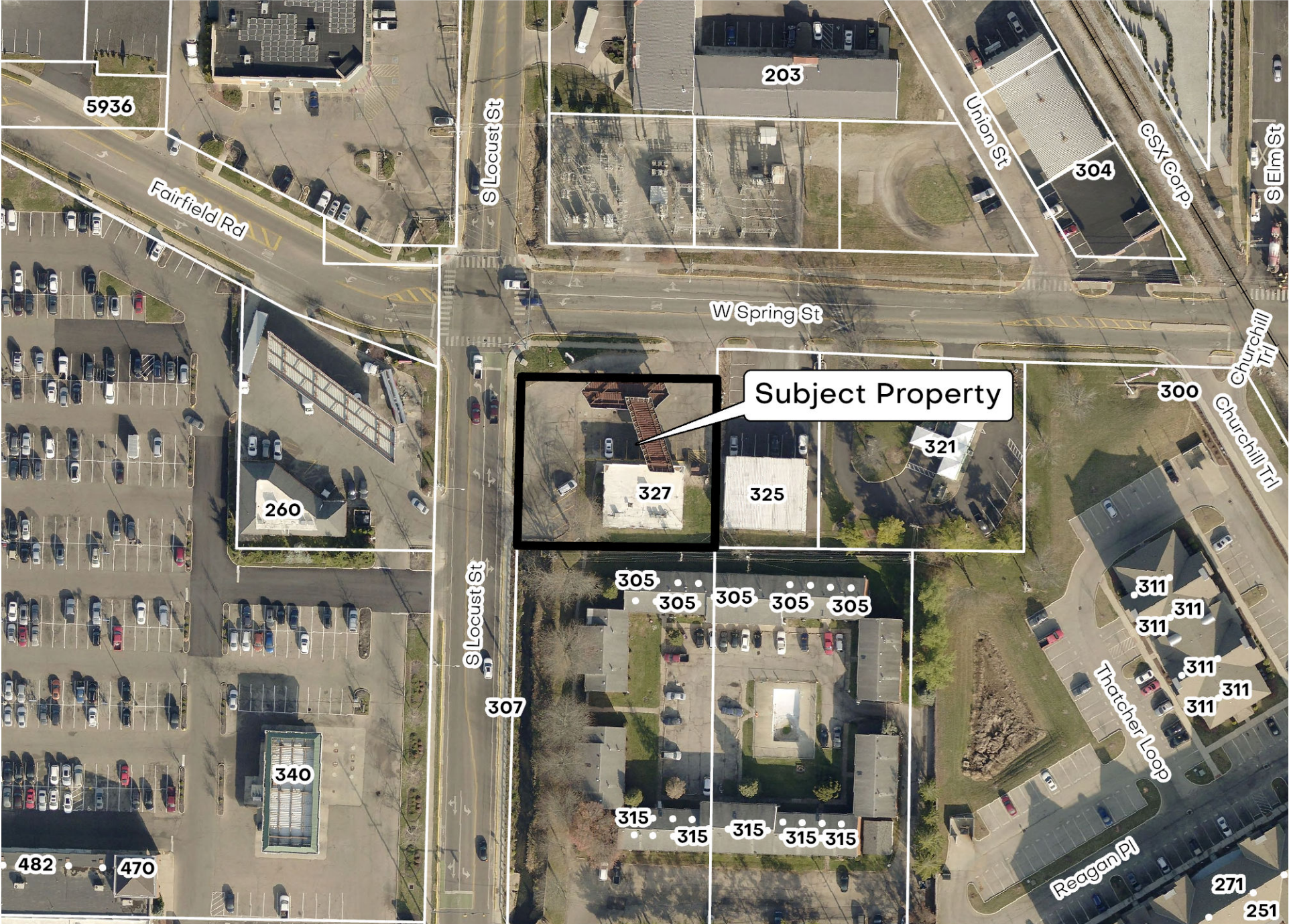
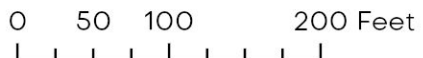
It is further moved that after considering and weighing these factors, the Board should find that practical difficulty (**is/is not**) shown sufficient to warrant granting the Variance requested, and that the Variance should be accordingly (**APPROVED / DENIED / APPROVED WITH THE FOLLOWING CONDITIONS**). The conditions for approval, if any, include:

Motion Seconded by: Mr. / Ms. _____.

Vote: Aye_____ Nay:_____

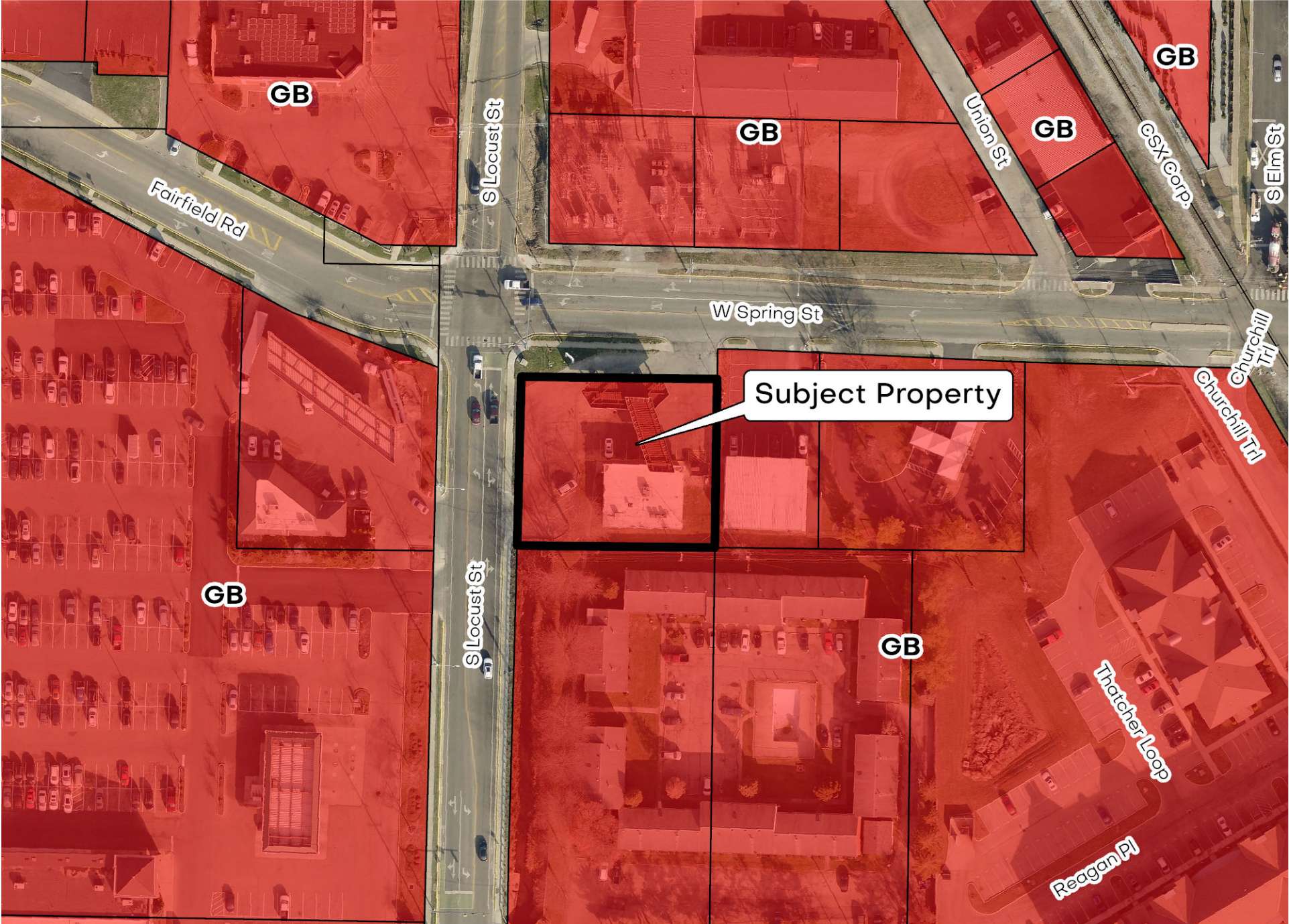
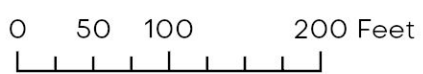
Aerial Map

 Site



Zoning Map

 Site





BZA-2022-03

Surrounding Property Owners Notifications Map

Legend

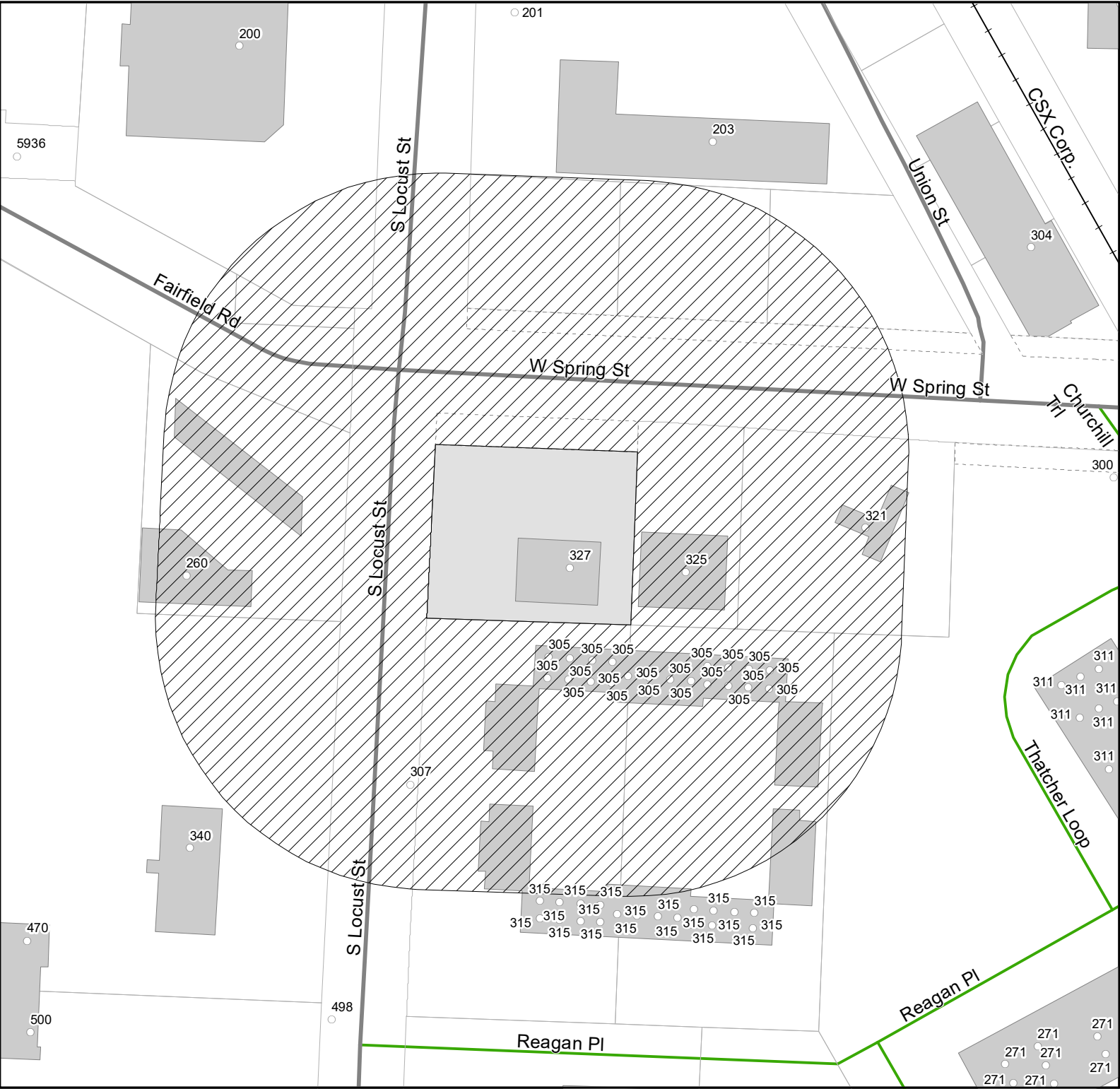
- Subject
- 200 Ft. Buffer
- Oxford Corp. Limit
- Address Point
- 16.5' Vacated ROW
- Building Footprint



1 inch = 100 feet

Prepared on Monday, August 29, 2022

The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.





Internal Use Only:

Case No.

BZA-2022-03

Date Filed

8/25/22

Petition for Zoning Variance

Petitioner Information

Attach a Letter of Agency if the Petitioner is not the property owner.

Name * Scott Webb, architect

Mailing Address * 103 West Walnut Street

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * (513) 523-3838

Email Address scott@scottwebbarchitect.com

Owner Information

Name * Miami Mobile Home Park LLC

Mailing Address * 5273 College Corner Pike

City, State & Zip Code * Oxford, Ohio 45056

Telephone Number(s) * (513) 805-5923

Email Address dayestatesllc@gmail.com

Variance and Lot Information

Requested Variance. * Indicate the nature of variance and applicable section(s) of the Planning and Zoning Code.

1141.04(j)(3)(G) - Location of trash enclosure.

1149.07(b)(1) - Parking in Front Setback & 1149.07(b)(3) Max. 70% parking in front of principle structure

1149.07(e)(2) - Loading space requirement

Location of Requested Variance * 327 West Spring Street

Name of Building Former gas station

Legal Description * Parcel # H4100104000001

Zoning District * GB Total Acreage *

Existing Use of Site * Former Gas Station & Convenience Store

Proposed Use (if applicable). A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles, and the hours of operation.

Site variances for an adaptive reuse of the existing building for a new restaurant tenant.

Required Plans and Documentation

From Section 1139.02(a)².

- (1) Contents of application for variance. **Eight** complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. **The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement.** If any information is submitted in color or on non-standard paper, more copies may be required.
 - A. Application Fee.
 - B. Description of Use and Site.
 - C. The name, mailing address, and telephone number of the applicant and the property owner.
 - D. If the applicant is not the owner, a statement from the owner that the applicant is entitled to apply on his or her behalf (Letter of Agency).
 - E. A legal description of the site, including all separate lots.
 - F. A description of the existing uses of the site.
 - G. The zoning district in which the site is located.
 - H. A description of the existing and proposed use.
 1. A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles.
 2. The hours of operation.
 - I. The nature and magnitude of the requested variance.
 - J. The Code section from which the variance is requested.
 - K. A separate narrative statement that explains how the proposed variance satisfies **each** of the Decision Standards required to grant a variance ([see Decision Standards section](#)).
 - L. A list of the names and mailing addresses of all landowners within 200 feet of the perimeter of the site ([see Surrounding Property Owners section](#)).
- (2) Site Plan. A scaled site plan shall include the following information in detail. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.
 - A. North arrow.
 - B. Scale.
 - C. Vicinity map.
 - D. All existing and proposed lot lines within the site.
 - E. Dimensions of all lots and of the entire site and any adjacent rights-of-way.
 - F. Location, height, and use of all proposed and existing structures.
 - G. Location and design of all proposed vehicle management areas.
 - H. Location, size, and type of all proposed signs.
 - I. Location, height, and type of all proposed screening and landscaping.
 - J. Distances to residential zoning districts if within 1,000 feet.
 - K. The use of land and location of structures on adjacent property and across adjacent rights-of-way.
 - L. An indication of the regulation from which the variance is requested.
 - M. Other information as required by the Board of Zoning Appeals.
- (3) Elevations. Elevations of proposed structures, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.
- (4) Other. Photographs of the existing use and its surroundings and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.

Surrounding Property Owners

On a separate sheet, provide the parcel numbers, names, and mailing addresses of all property owners within 200 feet of all boundaries of the property in question. The [Butler County Auditor Real Estate Search](#)¹ is helpful when searching for the mailing address of adjoining property owners. It allows you to search by owner, address, or parcel number.

Decision Standards

From Section 1139.02(c)(2). See *Chapter 1139 Variances*² for the full text.

- A. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;
- B. Whether the variance is substantial;
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

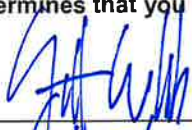
- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- H. Any other relevant factor.

Fees & Receipt

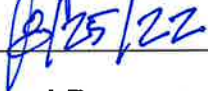
The variance fee is \$325.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00, plus \$10.00 postage charge. **Fees may increase if staff determines that you need more variances.**

Sign and Date

Petitioner Signature *



Date *



Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fees and postage charge, made payable to **City of Oxford**, to Community Development Director, 15 South College Avenue, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that

Scott Webb, Architect

(Applicant Name)

has permission to represent our interest with the City of Oxford regarding
variances and code change

(Application Description)

located at

327 West Spring Street, Oxford, OH 45056

(Property Address/Location)

Thank you,

Gail J. Willis

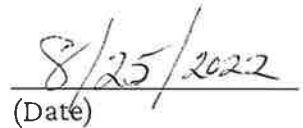
(Property Owner Printed Name – must be a person)

Miami Mobile Home Park, LLC

(Property Owner Company Name – if applicable)



(Property Owner Signature – must correspond to printed name above)



(Date)

Board of Zoning Appeals
City of Oxford
101 East High Street
Oxford, Ohio 45056



SCOTT
WEBB

ARCHITECT

103 West Walnut Street
Oxford, Ohio 45056
(513) 523-3838

www.scottwebbarchitect.com

Re: Site Related Variances for Adaptive Reuse
Location of Trash Enclosure
Location of Existing Parking in Front setback
Max. 70% Parking in Front of Principle Structure
Required Loading Space
327 west Spring Street

August 25, 2022

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for the following site related variances required for the adaptive reuse of a former gas station & convenience store to a new restaurant in the GB district.

- 1141.04(j)(3)(G) Specifies that a trash enclosure shall not be located in the front yard.
- The intention of the owner is to relocate the existing trash area from the northeast corner of the building to the southwest corner to allow for a new outdoor dining area.
- The west side of the existing building is lined with coolers, freezers, and back-of-house equipment left from the previous tenant. Locating the patio on this side of the building is functionally impossible for the proposed restaurant use, remote from the internal dining areas and with no access for patrons or servers.
- 1149.07(b)(1) Specifies that parking spaces shall not be located within the required front setback
- As an adaptive reuse, the building, parking locations, and curb cuts are existing. The proposal at hand reduces the non-conformity and reduces the overall paving area of the site.
- 1149.07(b)(3) Specifies that the maximum number of off-street parking spaces provided on-site in front of the principal structure shall not exceed 70% of the total number of required off-street spaces.
- In addition to the fact that the building and parking areas are existing, as a corner lot, the Zoning Code prescribes (2) front yards and (2) side yards with limited opportunity for parking that is not in front of the principal structure.
- 1149.07(e)(2) Requires one (1) loading space measuring 10 feet wide by 25 feet long to be provided somewhere on site.
- The existing site does not provide a loading space as required, nor is there a suitable location to provide one without eliminating parking. As with most restaurants, deliveries are scheduled on off hours when the restaurant is not busy, and the parking lot is available for delivery vehicles.

The following are responses to the decisions standards outlined in the application;

- a) *Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;*

Trash Location:

The relocation of the existing trash area is driven by the owner's desire for outdoor patio seating. This is a key component to the business plan, providing additional seating for the proposed new restaurant.

Parking Variances:

Reuse of the existing building is dependent on the reuse of the existing parking area.

Loading Space Variance:

There is no suitable location for a new loading space and the proposed new restaurant does not require one.

- b) *Whether the variance is substantial;*

Trash Location:

As shown on the Site Plan, Locust Street was built on the western side of the original 66' Right-of-Way. When the intersection was last improved, an additional 20' of Right-of-Way was acquired further west. The result is that the 35' front yard setback (starting at the property line) is more than 32' behind the existing curb of South Locust Street.

While the proposed location of the trash is almost entirely in the front yard setback area, it sets more than 65' back from the curb of South Locust Street, making the proposed variance less substantial.

Front Yard Parking Variance:

While nearly all the existing parking is in the front yard setback area, the non-conformity is reduced by the reconfiguration of the parking.

Max. 70% Parking in Front of Principle Structure Variance:

All of the existing parking is in front of the principal structure. The location of the existing building prevents parking in any other location on the site.

Loading Space Variance:

The proposed variance is to eliminate the loading space entirely as there is no suitable location for a new loading space and the proposed new restaurant does not require one. Furthermore, loading spaces are not always required for commercial uses like in the Uptown Zoning District.

- c) *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance*

Trash Location:

The relocation of the trash allows for a new outdoor dining area on the site and allows for a new raised pedestrian sidewalk from Spring Street to the new restaurant. Improving the character of neighborhood with pedestrian access and outdoor activity.

Parking Variances:

The adaptive reuse of this vacant building and site will improve the essential character of the neighborhood, reducing the overall paving area, adding greenspace and landscaping.

Loading Space variance:

The essential character of the neighborhood will be unaffected by the lack of a specific loading space. A loading space was never provided for the previous retail occupant of the site.

- d) *Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);*

Trash Location:

The relocation of the trash provides similar access for service, pulling in directly from a public street through an existing curb cut.

Parking Variances:

The delivery of governmental services is unaffected by the reuse of the existing parking areas. The parking lot is designed to commercial standards allowing access for fire and emergency vehicles.

Loading Space variance:

The delivery of governmental services is unaffected by the lack of a loading space.

- e) *Whether the property owner purchased the property with knowledge of the zoning restriction;*

Trash Location Variance:

The relocation of the trash is requested by the potential new tenant. The owner may not have been aware of the location of the front yard setback area to the west, based on the distance from the edge of the street.

Parking Variances:

The owner is aware that the Zoning Code has changed since this property was first developed as a gas station decades ago.

Loading Space Variance:

The owner is aware that the Zoning Code has changed since this property was first developed as a gas station decades ago.

- f) *Whether the property owners' predicament feasibly can be obviated through some method other than a variance;*

Trash Location Variance:

Without the relocation of the trash area, there is no functionally suitable location for the outdoor dining area.

Parking Variances:

As an existing developed site, there is no alternate location to provide the required parking, nor a side or rear yard for 30% of that required parking.

Loading Space variance:

As an existing developed site with no loading space, there is no suitable location for a loading space, nor is one necessary for the operation of the new restaurant.

- g) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;*

Trash Location Variance:

The spirit and intent of the zoning requirement is observed, providing an appropriately sized trash enclosure, shielded from public view, and set over 65' from the edge of the street.

Parking Variances:

Though the building and parking locations are existing, the spirit and intent of the zoning requirement is observed by the reduction of the overall paved areas and the additional trees and landscape islands.

Loading Space Variance:

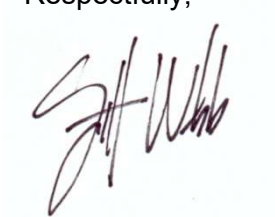
A loading space was not provided for the previous tenant and is not necessary for this new restaurant. Like in the uptown area, where loading spaces are not required, restaurants coordinate their deliveries during off hours.

h) Any other relevant factor;

This proposed adaptive reuse aligns with the goals of the Comprehensive Plan, encouraging infill and redevelopment within the City, improving the property aesthetically, and adding greenspace and trees at this important intersection.

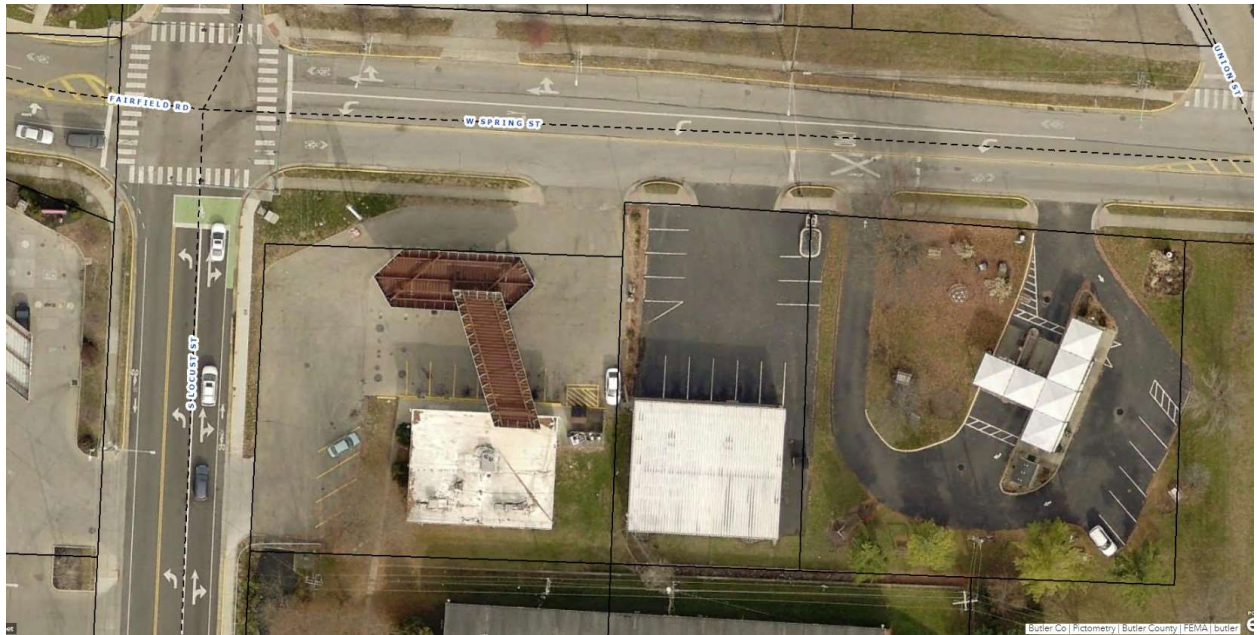
Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,

A handwritten signature in dark ink, appearing to read "Scott Webb", is written over a light blue rectangular background.

Scott Webb, Architect

Site Pictures – 327 West Spring Street



Aerial View (prior to removal of gas canopy)



Existing Building



Existing Building showing existing trash area to be relocated.



PRELIMINARY CONCEPT RENDERING

SHOWING PROPOSED OUTDOOR SEATING AREA



PROPOSED NEW RESTAURANT
327 West Spring Street
 OXFORD, OHIO 45056

DATE
August 25, 2022
REVISIONS

A-2



Community Development Department
Preliminary Zoning Review
513-524-5204

August 22, 2022

Scott Webb, Architect
103 W Walnut Street
Oxford, OH 45056

VIA EMAIL:
scott@scottwebbarchitect.com

RE: Preliminary Zoning Review for 327 W Spring – Change of Use to Restaurant

Dear Mr. Webb:

As requested, I have reviewed your preliminary site plan received August 16, 2022 for 327 W Spring Street in Oxford, Ohio. The proposal is to change the use of a former gas station (Circle K / Marathon) to a new restaurant. Below are comments pertaining to review of the plan for compliance with the Oxford Zoning Code. The site is zoned GB General Business District.

This is only a preliminary review based upon the details currently provided. New or different comments may be delivered at the time of formal Building Permit submission. Any differences in plans submitted at the time of Permit review may reveal new or revised comments different than those appearing below. A copy of the site plan reviewed is included as an attachment to this letter.

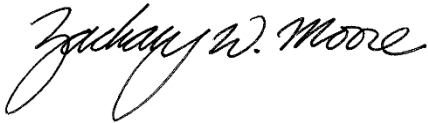
Comments on the submitted plan are as follows:

1. **Section 1141.04(j)(2)** provides that *properties shall have adequately sized, conveniently located, accessible, trash and recycling facilities, to accommodate the specific needs of the proposed use(s) on the site*. The applicant is advised to assess whether the refuse area is sufficiently sized for trash and recycling collection associated with the intended restaurant operation prior to submitting for a Building Permit. The City's Environmental Specialist and/or the service provider (Rumpke) may be consulted.
2. **Section 1141.04(j)(3)(D)** provides that *trash enclosures shall be constructed of durable materials such as masonry and shall be compatible with the structure to which it is associated. Gates on the enclosures shall be constructed of metal or some other comparable durable materials, [and] shall be painted to match the enclosure (...)*. Furthermore, subsection **(F)** provides that *enclosure areas shall be constructed on a 4000 psi concrete pad at least 4-inches in thickness*. Please be aware of these provisions for a future Building Permit submission.
3. **Section 1141.04(j)(3)(G)** specifies that a trash enclosure shall not be located in the front yard. The trash enclosure is proposed to be relocated to the west side of the building in an area which is located within the 35-foot front yard setback area.
4. **Section 1149.07(b)(1)** specifies that *parking spaces shall not be located within the required front setback*. A total of thirteen (13) parking spaces are shown to be located within the 35-foot front yard setback.
5. **Section 1149.07(b)(3)** provides that *the maximum number of off-street parking spaces provided on-site in front of the principal structure shall not exceed 70% of the total number of required off-street spaces*. With a gross building floor area of 2,400 square feet, the required number of parking spaces is 16. A total of 19 spaces are proposed, all of which (100%) are in located in front of the principal structure.
6. **Section 1149.07(e)(2)** requires one (1) loading space measuring 10 feet wide by 25 feet long to be provided somewhere on site. Please update the site plan to show a suitable location for this loading space.

7. **Section 1149.07(e)(4)(D)** requires a minimum security lighting level of 1 foot candle. Several pole mounted light fixtures currently exist on the site. Please be aware that a photometric plan will be required at the time of Building Permit submission to verify compliance with this provision. Existing lights will need to be in working order, or replaced as needed, to ensure the parking area is appropriately lit.
8. **Section 1149.07(e)(4)(E)** requires a 6-inch high concrete curb around all pavement associated with an off-street parking area. Please be aware of the required curb height for all areas of the site plan where new curbing is shown to be installed.
9. **Section 1149.07(e)(4)(R)(4)** specifies that where a pedestrian walkway is adjacent to an auto travel lane, it must be raised and separated *by a raised curb at least 6 inches high, decorative bollards, or other physical barrier*. Please be aware of this standard with respect to the new pedestrian sidewalk shown alongside the auto travel lane linking the building to W Spring Street.
10. **Section 1149.07(e)(5)(A)(1)(a)** requires at least 3 bicycle parking spaces to be provided on-site. This can be achieved by installing an outdoor rack capable of supporting at least 3 bikes. A rack must be located in a visible location which does not interfere with pedestrian movements, and maintains a distance of at least 2 feet from the nearest wall.
11. **Section 1151.05(a)(3)(A)(1)(b)(ii)** provides that a freestanding sign structure for a single-tenant site in the GB District cannot be any taller than 6 feet or wider than 12 feet. The existing pylon sign near the corner of W Spring and S Locust exceeds 6 feet in height. **Section 1137.10(b)(5)** provides that an existing sign loses its legal nonconforming designation if *the sign has not been used for a continuous period of six (6) months*. City records reveal that the gas canopy was demolished, thereby implying vacation of the gas station use, as of December 28, 2021 which was more than six (6) months ago. Based on the evidence available, in order to continue usage of the existing sign, a Variance to the above stated provision in **Section 1151.05** would be required.

Please contact me if you have any questions.

Respectfully,



Zachary Moore, AICP
City Planner / GIS Coordinator
zmoore@cityoffoxford.org
513-524-5204

ATTACHMENT – Preliminary Site Plan for 327 W Spring

